



General Assembly

Substitute Bill No. 5014

February Session, 2010

* HB05014INS 021610 *

***AN ACT CONCERNING AUTOMOBILE AND PERSONAL RISK
INSURANCE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-686 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2011*):

3 The following standards, methods and criteria shall apply to the
4 making and use of rates pertaining to personal risk insurance:

5 (a) Rates shall not be excessive, inadequate or unfairly
6 discriminatory.

7 (1) A rate in a competitive market is not excessive. A rate in a
8 noncompetitive market including a rate for insurance provided
9 pursuant to sections 38a-328, 38a-329 and 38a-670 is excessive if it is
10 unreasonably high for the insurance provided.

11 (2) No rate shall be held inadequate unless (A) it is unreasonably
12 low for the insurance provided, and (B) continued use of it would
13 endanger solvency of the insurer, or unless (C) such rate is
14 unreasonably low for the insurance provided and the use of such rate
15 by the insurer using same has, or, if continued will have, the effect of
16 destroying competition or creating a monopoly.

17 (b) In determining whether rates comply with the excessiveness

18 standard in a noncompetitive market under subdivision (1) of
19 subsection (a) of this section, the inadequacy standard under
20 subdivision (2) of subsection (a) of this section and the requirement
21 that rates not be unfairly discriminatory, the following criteria shall
22 apply:

23 (1) Consideration may be given, to the extent possible, to past and
24 prospective loss experience within and outside this state, to
25 conflagration and catastrophe hazards, to a reasonable margin for
26 underwriting profit and contingencies, to past and prospective
27 expenses both country-wide and those specially applicable to this
28 state, to investment income earned or realized by insurers both from
29 their unearned premium and loss reserve funds, and to all other
30 factors, including judgment factors, deemed relevant within and
31 outside this state and in the case of fire insurance rates, consideration
32 may be given to the experience of the fire insurance business during
33 the most recent five-year period for which such experience is available.
34 Consideration may be given in the making and use of rates to
35 dividends, savings or unabsorbed premium deposits allowed or
36 returned by insurers to their policyholders, members or subscribers.

37 (2) (A) The systems of expense provisions included in the rates for
38 use by an insurer or group of insurers may differ from those of other
39 insurers or groups of insurers to reflect the operating methods of any
40 such insurer or group with respect to any kind of insurance, or with
41 respect to any subdivision or combination thereof.

42 (B) (i) With respect to private passenger nonfleet automobile
43 insurance, an insurer shall not allocate as flat dollar amounts to base
44 rates: (I) Producer commissions; (II) premium taxes; (III) underwriting
45 profits; or (IV) contingencies.

46 (ii) With respect to private passenger nonfleet automobile insurance,
47 an insurer shall allocate as flat dollar amounts to base rates: (I) At least
48 ninety per cent of general expenses, including administration and
49 overhead costs; (II) at least ninety per cent of other acquisition costs for

50 marketing and agent field offices, which may be allocated over the
51 expected life of such insurer's policies; and (III) miscellaneous taxes,
52 licenses and fees.

53 (iii) Each insurer shall allocate such flat dollar amounts set forth in
54 subparagraph (B)(ii) of this subdivision after any classification factors
55 set forth in subdivisions (3) to (5), inclusive, of this subsection have
56 been applied to base rates.

57 (3) Risks may be grouped by classifications for the establishment of
58 rates and minimum premiums, provided that with respect to private
59 passenger nonfleet automobile insurance, any change in territorial
60 classifications shall be subject to prior approval by the Insurance
61 Commissioner, and provided no surcharge on any motor vehicle
62 liability or physical damage insurance premium [may] shall be
63 assigned for (A) any accident involving only property damage of one
64 thousand dollars or less, [or] (B) the first accident involving only
65 property damage of more than one thousand dollars which would
66 otherwise result in a surcharge to the policy of the insured, within the
67 experience period set forth in the insurer's safe driver classification
68 plan, [or] (C) any violation of section 14-219 unless such violation
69 results in the suspension or revocation of the operator's license under
70 section 14-111b, [or] (D) less than three violations of section 14-218a
71 within any one-year period, [or] (E) any accident caused by an
72 operator other than the named insured, a relative residing in the
73 named insured's household, or a person who customarily operates the
74 insured vehicle, [or] (F) the first or second accident within the current
75 experience period in relation to which the insured was not convicted of
76 a moving traffic violation and was not at fault, or (G) any motor
77 vehicle infraction. Subparagraph (G) of this subdivision shall not be
78 applicable to any plan established pursuant to section 38a-329.
79 Classification rates may be modified to produce rates for individual
80 risks in accordance with rating plans [which] that provide for
81 recognition of variations in hazards or expense provisions or both.
82 Such rating plans may include application of the judgment of the
83 insurer and may measure any differences among risks that can be

84 demonstrated to have a probable effect upon losses or expenses.

85 (4) Each rating plan for private passenger nonfleet automobile
86 insurance that includes territorial classifications shall assign a weight
87 of seventy-five per cent to individual territorial loss cost indication and
88 twenty-five per cent to the state-wide average loss cost indication.

89 ~~[(4)]~~ (5) Each rating plan shall establish appropriate eligibility
90 criteria for determining significant risks ~~[which]~~ that are to qualify
91 under the plan. Rating plans ~~[which]~~ that comply with the provisions
92 of this subdivision shall be deemed to produce rates ~~[which]~~ that are
93 not unfairly discriminatory.

94 (c) Notwithstanding the provisions of subsections (a) and (b) of this
95 section, no rate shall include any adjustment designed to recover
96 underwriting or operating losses incurred out-of-state.

97 (d) ~~[The]~~ Not later than January 1, 2012, the commissioner ~~[may]~~
98 shall adopt regulations, in accordance with the provisions of chapter
99 54, ~~[concerning rating plans to effectuate]~~ to implement the provisions
100 of this section and the most current guidelines and bulletins issued by
101 the Insurance Department and in effect that pertain to territorial
102 classifications.

103 Sec. 2. Subsection (b) of section 38a-686 of the general statutes, as
104 amended by section 1 of this act, is amended by adding subdivision (6)
105 as follows (*Effective July 1, 2011*):

106 (NEW) (6) With respect to personal risk insurance, an insurer shall
107 not use an applicant's or insured's credit history as a factor in
108 underwriting or rating except in accordance with this subdivision. For
109 the purposes of this section, "credit history" means any credit-related
110 information derived from or found in a credit report or credit scoring
111 program or provided in an application for personal risk insurance, and
112 "financial history measurement program" means a program that uses
113 an applicant's credit history to measure such applicant's risk of loss.

114 (A) An insurer shall file with the commissioner any financial history
115 measurement program it uses to underwrite or rate risks for personal
116 risk insurance. Such filing shall (i) include a description of the
117 program, (ii) identify the characteristics used in such program from
118 which a measurement is derived, (iii) include the rules and procedures
119 of such program, and (iv) include an explanation of the impact of
120 credit information and items of public record on insurance rates over
121 time. Such program shall not unfairly discriminate among applicants
122 or produce rates that are excessive for the risk assumed. Any filing
123 made pursuant to this subparagraph shall be considered a trade secret
124 for the purposes of section 1-210.

125 (B) (i) An insurer that uses a financial history measurement program
126 shall submit to the commissioner documentation that demonstrates the
127 correlation between such program and the expected risk of loss, and
128 how such program impacts consumers (I) in urban territories, versus
129 consumers in nonurban territories, and (II) based on consumers' ages.
130 The commissioner may request the insurer to provide a financial
131 history measurement for a set of test examples that reflect various
132 characteristics.

133 (ii) An insurer that uses a financial history measurement program
134 shall disclose to each applicant for personal risk insurance, in writing,
135 by telephone, by electronic mail or orally, at the time of application
136 that the applicant's credit history may be used in the underwriting or
137 rating of such applicant's policy, and that the applicant has the right to
138 request, in writing, that the insurer consider, during its underwriting
139 or rating process or during a review requested by such applicant of a
140 rate quote, an extraordinary life circumstance, as set forth in
141 subparagraph (D) of this subdivision, if such applicant's credit history
142 has been adversely impacted by such extraordinary life circumstance
143 and such extraordinary life circumstance occurred within three years
144 before the date of the application. In addition, such insurer shall
145 provide to each purchaser of such policy, not later than the date of
146 issuance of such policy, a written disclosure that includes: (I) The
147 name, address, telephone number and toll-free telephone number, if

148 applicable, of the insurer; (II) detailed information about how the
149 insurer uses credit information to underwrite or rate such policies; and
150 (III) a summary of consumer protections regarding the use of credit, in
151 a form determined by the commissioner. Such written disclosure shall
152 be printed in reasonably conspicuous type and be provided by the
153 insurer electronically, by mail or by hand delivery.

154 (C) (i) An insurer may use a financial history measurement program
155 to underwrite or rate risks only (I) for new personal risk insurance
156 policies, or (II) upon renewal, either at the request of an insured or if
157 such use reduces the premium for the insured in accordance with the
158 insurer's filed rates and rules.

159 (ii) An insurer shall not use the following characteristics in a
160 financial history measurement program: (I) The number of credit
161 inquiries in an applicant's or insured's credit report or credit history;
162 (II) the applicant's or insured's use of a particular type of credit card,
163 debit card or charge card; (III) the applicant's or insured's total
164 available line of credit; (IV) any disputed credit information while such
165 dispute is under review by a credit reporting company, provided such
166 information is identified in an applicant's or insured's credit report or
167 credit history as being in dispute; (V) collection accounts identified
168 with a medical industry code in the applicant's or insured's credit
169 report or credit history; and (VI) the applicant's or insured's lack of
170 credit history, unless the insurer treats the applicant or insured as if
171 such applicant or insured had neutral credit information, as defined by
172 the insurer.

173 (iii) A financial history measurement program shall give the same
174 weight to an applicant's or insured's purchase or financing of a specific
175 item regardless of the type of item purchased or financed.

176 (D) (i) Upon written request by an applicant, an insurer shall
177 consider, during its underwriting or rating process or during a review
178 requested by such applicant of a rate quote, an extraordinary life
179 circumstance of such applicant if such extraordinary life circumstance

180 occurred within three years before the date of application. If such
181 insurer determines that such applicant's credit history has been
182 adversely impacted by such extraordinary life circumstance, such
183 insurer shall grant a reasonable exception to such insurer's rates, rating
184 classifications or underwriting rules for such applicant. As used in this
185 subparagraph, "extraordinary life circumstance" means (I) a
186 catastrophic illness or injury, (II) divorce, (III) the death of a spouse,
187 child or parent, (IV) the involuntary loss of employment for more than
188 three consecutive months, (V) identity theft, (VI) total or other loss that
189 makes a home uninhabitable, (VII) other circumstances as may be
190 adopted in regulations by the commissioner, in accordance with
191 chapter 54, or (VIII) any other circumstance an insurer may choose to
192 recognize.

193 (ii) An insurer may require the applicant to provide reasonable,
194 independently verifiable written documentation of the extraordinary
195 life circumstance and the effect of such extraordinary life circumstance
196 on such applicant's credit report or credit history. Any such
197 documentation shall be kept confidential by the insurer.

198 (iii) If the insurer grants an exception pursuant to subparagraph
199 (D)(i), the insurer shall (I) consider only credit information that is not
200 affected by the extraordinary life circumstance, or (II) treat the
201 applicant as if such applicant had neutral or better than neutral credit
202 information, as defined by the insurer.

203 (iv) An insurer shall not be deemed to be out of compliance with
204 any provision of the general statutes or regulations adopted
205 thereunder concerning underwriting, rating or rate filing solely on the
206 basis of the granting of an exception pursuant to this subparagraph.

207 (E) (i) If an insurer takes an adverse action that is due at least in part
208 to the information contained in an applicant's or insured's credit
209 report, such insurer shall disclose to such applicant or insured: (I) That
210 such adverse action was based on the credit report of such insured or
211 applicant; (II) that such applicant or insured is entitled to a free copy of

212 such credit report and where such report can be obtained; (III) the
213 types of extraordinary life circumstances set forth in subparagraph (D)
214 of this subdivision; and (IV) the procedures for an applicant to inform
215 the insurer of an extraordinary life circumstance and to submit any
216 required documentation pursuant to subparagraph (D) of this
217 subdivision.

218 (ii) For the purposes of this subdivision, an "adverse action" means
219 (I) the denial of coverage to an applicant or insured or the offering of
220 restricted coverage, (II) the offering of a higher rate, (III) the
221 assignment of an applicant or insured to a higher rate tier or to a
222 higher-priced company within an insurer group, or (IV) any other
223 action that adversely impacts an applicant or insured due to the
224 financial history measurement program.

225 (F) After an insurer's financial history measurement program has
226 been in effect for two years, the commissioner may require such
227 insurer to submit a report to the commissioner on the use of such
228 program in the state. Such report shall include information that
229 demonstrates that such program results in rates that are supported by
230 the data and that are not unfairly discriminatory, and an analysis of
231 consumer complaints submitted in writing or by electronic mail to the
232 insurer resulting from such insurer's use of a financial history
233 measurement program, such that is sufficient to identify the basis for
234 the complaints and any subsequent insurer action.

235 Sec. 3. (NEW) (*Effective January 1, 2011*) The declination, cancellation
236 or nonrenewal of a personal risk insurance policy not subject to the
237 provisions of section 38a-358 of the general statutes, as amended by
238 this act, is prohibited if the declination, cancellation or nonrenewal is
239 based solely on information contained in an insured's or applicant's
240 credit history or credit rating or solely on an applicant's lack of credit
241 history. For the purposes of this section, an insurer shall not be
242 deemed to have declined, cancelled or nonrenewed a policy if
243 coverage is available through an affiliated insurer.

244 Sec. 4. Section 38a-358 of the general statutes is repealed and the
245 following is substituted in lieu thereof (*Effective January 1, 2011*):

246 The declination, cancellation or nonrenewal of a policy for private
247 passenger nonfleet automobile insurance is prohibited if the
248 declination, cancellation or nonrenewal is based: (1) On the race,
249 religion, nationality or ethnicity of the applicant or named insured; (2)
250 solely on the lawful occupation or profession of the applicant or
251 named insured, except that this provision shall not apply to any
252 insurer which limits its market to one lawful occupation or profession
253 or to several related lawful occupations or professions; (3) on the
254 principal location of the insured motor vehicle unless such decision is
255 for a business purpose which is not a mere pretext for unfair
256 discrimination; (4) solely on the age, sex or marital status of an
257 applicant or an insured, except that this subdivision shall not apply to
258 an insurer in an insurer group if one or more other insurers in the
259 group would not decline an application for essentially similar coverage
260 based upon such reasons; (5) on the fact that the applicant or named
261 insured previously obtained insurance coverage through a residual
262 market; (6) on the fact that another insurer previously declined to
263 insure the applicant or terminated an existing policy in which the
264 applicant was the named insured; [or] (7) the first or second accident
265 within the current experience period in relation to which the applicant
266 or insured was not convicted of a moving traffic violation and was not
267 at fault; or (8) solely on information contained in an insured's or
268 applicant's credit history or credit rating or solely on an applicant's
269 lack of credit history. For the purposes of subdivision (8) of this
270 section, an insurer shall not be deemed to have declined, cancelled or
271 nonrenewed a policy if coverage is available through an affiliated
272 insurer.

273 Sec. 5. Section 38a-343 of the 2010 supplement to the general statutes
274 is repealed and the following is substituted in lieu thereof (*Effective*
275 *October 1, 2010*):

276 (a) No notice of cancellation of a policy to which section 38a-342

277 applies shall be effective unless sent, by registered or certified mail or
278 by mail evidenced by a certificate of mailing, or delivered by the
279 insurer to the named insured, and any third party designated pursuant
280 to section 38a-323a, at least forty-five days before the effective date of
281 cancellation, except that (1) where cancellation is for nonpayment of
282 the first premium on a new policy, at least fifteen days' notice of
283 cancellation accompanied by the reason for cancellation shall be given,
284 and (2) where cancellation is for nonpayment of any other premium, at
285 least ten days' notice of cancellation accompanied by the reason for
286 cancellation shall be given. No notice of cancellation of a policy that
287 has been in effect for less than sixty days shall be effective unless
288 mailed or delivered by the insurer to the insured and any third party
289 designee at least forty-five days before the effective date of
290 cancellation, except that (A) at least fifteen days' notice shall be given
291 where cancellation is for nonpayment of the first premium on a new
292 policy, and (B) at least ten days' notice shall be given where
293 cancellation is for nonpayment of any other premium or material
294 misrepresentation. The notice of cancellation shall state or be
295 accompanied by a statement specifying the reason for such
296 cancellation. Any notice of cancellation for nonpayment of the first
297 premium on a new policy may be retroactive to the effective date of
298 such policy, provided at least fifteen days' notice has been given to the
299 insured and any third party designee and payment of such premium
300 has not been received during such notice period.

301 (b) Where a private passenger motor vehicle liability insurance
302 company sends a notice of cancellation under subsection (a) of this
303 section to the named insured of a private passenger motor vehicle
304 liability insurance policy, or a third party designee, such company
305 shall provide with such notice a warning, in a form approved by the
306 Commissioner of Motor Vehicles and the Insurance Commissioner,
307 that informs the named insured that (1) the cancellation will be
308 reported to the Commissioner of Motor Vehicles; (2) the named
309 insured may be receiving one or more mail inquiries from the
310 Commissioner of Motor Vehicles, concerning whether or not required

311 insurance coverage is being maintained, and that the named insured
312 must respond to these inquiries; (3) if the required insurance coverage
313 lapses at any time, the Commissioner of Motor Vehicles may suspend
314 the registration or registrations for the vehicle or vehicles under the
315 policy and the number plates will be subject to confiscation and any
316 person operating any such vehicle will be subject to legal penalties for
317 operating a motor vehicle with a suspended registration; (4) the named
318 insured will not be able to have the registration restored or obtain a
319 new registration, or any other registration or renewal in the insured's
320 name, except upon presentation to the Commissioner of Motor
321 Vehicles of evidence of required security or coverage and the entering
322 into of a consent agreement with the commissioner in accordance with
323 the provisions of section 14-12g.

324 (c) If a passenger motor vehicle liability insurance company cancels
325 a private passenger motor vehicle liability insurance policy pursuant to
326 section 38a-342, such company shall send a written notice of such
327 cancellation to any lienholder shown on the records of such company
328 as having a legal interest in such motor vehicle.

329 ~~[(c)]~~ (d) Subsections (a) and (b) of this section shall not apply to
330 nonrenewal or if the private passenger motor vehicle liability
331 insurance policy is transferred from an insurer to an affiliate of such
332 insurer for another policy with no interruption of coverage and
333 contains the same terms, conditions and provisions, including policy
334 limits, as the transferred policy, except that the insurer to which the
335 policy is transferred shall not be prohibited from applying its rates and
336 rating plans at the time of renewal.

337 ~~[(d)]~~ (e) No insurance company that renews, amends or endorses in
338 this state a private passenger motor vehicle liability insurance policy
339 shall charge any fee or other charge exceeding one hundred dollars in
340 the aggregate to an insured who cancels such policy prior to the
341 expiration of such policy.

342 Sec. 6. Section 14-12h of the general statutes is repealed and the

343 following is substituted in lieu thereof (*Effective October 1, 2010*):

344 (a) The Commissioner of Motor Vehicles shall compile and maintain
345 a record of all registrations suspended in accordance with the
346 provisions of sections 14-12c and 14-12g. The commissioner shall
347 update the information contained in such record not less than once per
348 week and shall make available to all law enforcement agencies in this
349 state a list of all registration number plates for vehicles whose
350 registration has been suspended. Such list shall contain the number
351 plate numbers, letters or number and letter combinations and the
352 address at which the vehicle was registered. The commissioner may
353 make available the entire list or a portion thereof and may utilize one
354 or more formats for presenting the information contained therein to
355 facilitate its use.

356 (b) (1) If any police officer observes a motor vehicle being operated
357 upon the public highway, and such motor vehicle is displaying
358 registration number plates identified as suspended on the list made
359 available by the commissioner, such police officer may (A) stop or
360 detain such vehicle and its occupants, (B) issue to the operator a
361 complaint for operating an unregistered motor vehicle, or expired
362 registration if the vehicle is not being operated, in violation of section
363 14-12, and (C) remove the registration number plates from the vehicle
364 and return them to any branch office of the Department of Motor
365 Vehicles. If any police officer, motor vehicle inspector or constable
366 observes a motor vehicle parked in any parking area, as defined in
367 section 14-212, and such motor vehicle is displaying registration
368 number plates identified as suspended on the list made available by
369 the commissioner, such police officer, motor vehicle inspector or
370 constable is authorized to remove the registration number plates from
371 the vehicle and to return them to any branch office of the Department
372 of Motor Vehicles. If a number plate is identified as suspended on the
373 list provided by the commissioner and such identification is in error,
374 the state shall indemnify any police officer, motor vehicle inspector or
375 constable for any claim for damages made against that individual as a
376 result of such individual's good faith reliance on the accuracy of the list

377 provided by the commissioner regarding the confiscation of number
378 plates.

379 (2) If any police officer observes a motor vehicle being operated
380 upon the public highway or parked in any parking area, as defined in
381 section 14-212, displaying registration number plates identified on the
382 list made available by the commissioner as being suspended, such
383 police officer may seize and impound the vehicle. If a police officer
384 seizes and impounds a vehicle pursuant to this subdivision, such
385 officer shall give notice to the commissioner in such form as the
386 commissioner may require. The police officer shall give such notice not
387 later than three days after seizing and impounding the vehicle.

388 (c) Any motor vehicle [which] that has been impounded in
389 accordance with the provisions of subdivision (2) of subsection (b) of
390 this section shall not be released to the owner or person otherwise
391 entitled to possession of the vehicle unless such owner or person
392 presents a valid registration and a current automobile insurance
393 identification card. Any such impounded motor vehicle that is not
394 reclaimed by the owner of such motor vehicle within forty-five days
395 after impounding [,] shall be subject to forfeiture to the state.

396 Sec. 7. Section 38a-353 of the general statutes is repealed and the
397 following is substituted in lieu thereof (*Effective January 1, 2011*):

398 (a) Whenever any damaged motor vehicle covered under an
399 automobile insurance policy has been declared to be a constructive
400 total loss by the insurer, the insurer shall, in calculating the value of
401 such vehicle for purposes of determining the settlement amount to be
402 paid to the claimant, use at least the average of the retail values given
403 such vehicle by (1) the National Automobile Dealers Association used
404 car guide or any other publicly available automobile industry source
405 that has been approved for such use by the Insurance Commissioner,
406 and (2) one other automobile industry source [which] that has been
407 approved for such use by [the Insurance Commissioner] said
408 commissioner. For the purposes of this section, "constructive total loss"

409 means the cost to repair or salvage damaged property, or the cost to
410 both repair and salvage such property, equals or exceeds the total
411 value of the property at the time of loss.

412 (b) The insurer shall provide to the claimant, not later than the date
413 the insurer pays the claimant the settlement amount for such vehicle,
414 (1) a detailed copy of such insurer's calculation of such vehicle's
415 constructive total loss value, (2) if applicable, a copy of any valuation
416 report provided to the insurer by any automobile industry source that
417 is not publicly available, and (3) a written notice disclosing that the
418 claimant may dispute such settlement amount by contacting the
419 Insurance Department. The written notice shall include the following
420 statement, which shall appear in the final paragraph of the notice in
421 not less than twelve-point type: "If you do not agree with this
422 valuation, you may contact the Consumer Affairs Division within the
423 Insurance Department". The notice shall include the address and toll-
424 free telephone number for the division and the Insurance Department's
425 Internet address.

426 Sec. 8. Subdivision (2) of subsection (b) of section 38a-9 of the 2010
427 supplement to the general statutes is repealed and the following is
428 substituted in lieu thereof (*Effective January 1, 2011*):

429 (2) The commissioner shall prepare a list of at least ten persons, who
430 have not been employed by the department or an insurance company
431 during the preceding twelve months, to serve as arbitrators in the
432 settlement of such disputes. The arbitrators shall be members of any
433 dispute resolution organization approved by the commissioner. One
434 arbitrator shall be appointed to hear and decide each complaint.
435 Appointment shall be based solely on the order of the list. If an
436 arbitrator is unable to serve on a given day, or if either party objects to
437 the arbitrator, then the next arbitrator on the list will be selected. The
438 department shall schedule arbitration hearings as often, and in such
439 locations, as it deems necessary. Parties to the dispute shall be
440 provided written notice of the hearing, at least ten days prior to the
441 hearing date. The commissioner may issue subpoenas on behalf of the

442 arbitrator to compel the attendance of witnesses and the production of
443 documents, papers and records relevant to the dispute. Decisions shall
444 be made on the basis of the evidence presented at the arbitration
445 hearing. Where the arbitrator believes that technical expertise is
446 necessary to decide a case, [he] such arbitrator may consult with an
447 independent expert recommended by the commissioner. The arbitrator
448 and any independent technical expert shall be paid by the department
449 on a per dispute basis as established by the commissioner. The
450 arbitrator, as expeditiously as possible, but not later than fifteen days
451 after the arbitration hearing, shall render a written decision based on
452 the information gathered and disclose the findings and the reasons to
453 the parties involved. The arbitrator shall award filing fees to the
454 prevailing party. If the decision favors the consumer the decision shall
455 provide specific and appropriate remedies including interest at the rate
456 of [ten] fifteen per cent per year on the arbitration award concerning
457 the disputed amount of the claim, retroactive to the date of payment
458 for the undisputed amount of the claim. The decision may include
459 costs for loss of use and storage of the motor vehicle and shall specify a
460 date for performance and completion of all awarded remedies.
461 Notwithstanding any provision of the general statutes or any
462 regulation to the contrary, the Insurance Department shall not amend,
463 reverse, rescind, or revoke any decision or action of any arbitrator. The
464 department shall contact the consumer within ten working days after
465 the date for performance, to determine whether performance has
466 occurred. Either party may make application to the superior court for
467 the judicial district in which one of the parties resides or, when the
468 court is not in session, any judge thereof for an order confirming,
469 vacating, modifying or correcting any award, in accordance with the
470 provisions of sections 52-417, 52-418, 52-419 and 52-420. If it is
471 determined by the court that either party's position after review has
472 been improved by at least ten per cent over that party's position after
473 arbitration, the court, in its discretion, may grant to that party its costs
474 and reasonable attorney's fees. No evidence, testimony, findings, or
475 decision from the department arbitration procedure shall be
476 admissible in any civil proceeding, except judicial review of the

477 arbitrator's decision as contemplated by this subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2011</i>	38a-686
Sec. 2	<i>July 1, 2011</i>	38a-686(b)
Sec. 3	<i>January 1, 2011</i>	New section
Sec. 4	<i>January 1, 2011</i>	38a-358
Sec. 5	<i>October 1, 2010</i>	38a-343
Sec. 6	<i>October 1, 2010</i>	14-12h
Sec. 7	<i>January 1, 2011</i>	38a-353
Sec. 8	<i>January 1, 2011</i>	38a-9(b)(2)

Statement of Legislative Commissioners:

In the prefatory language of sections 5 and 8, "2010 supplement to the" was inserted before "general statutes" for accuracy, and in section 7(b), "including" after "The written notice shall" was changed to "include" for proper grammar.

INS *Joint Favorable Subst.-LCO*